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Via ECF Filing

Hon. Robert M. Levy
United States Magistrate Judge
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: Failure to Preserve ESI, Case No. 1:20-CV-03627-RPK-RML
192 Morgan Realty, LLC and Morgan Williamsburg, LLC v.
Aquatorium, LLC, Moretti Designs, LLC and Jonathan Yaney**

Dear Judge Levy:

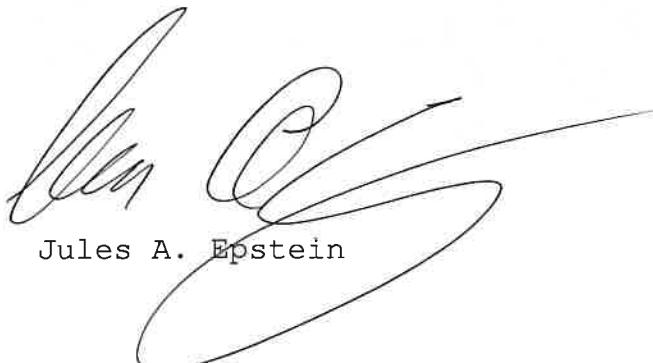
I am constrained to reply to counsel's response to Plaintiffs' request to seek relief pursuant to FRCP Rule 37(e).

The courts have repeatedly found that failure to preserve ESI is a serious infraction. Here, counsel does not dispute that his client failed to preserve, and destroyed, relevant ESI after filing its counterclaim. While counsel is quick to accuse others of "lying", his client testified that multiple relevant Whats App conversations (not "a" [singular] Whats App conversation as mischaracterized by counsel) were destroyed. Whether this spoliation of evidence was inadvertent or deliberate is for the Court to determine.

Defendant's purported Rule 11 motion is wholly unrelated to Defendant's spoliation of evidence after filing a pleading and after engaging counsel. It is Defendant's counsel who seeks to distract from his client's admitted spoliation of relevant evidence.

Thank you for your consideration.

Respectfully yours,



Jules A. Epstein